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FOREWORD

The sturdy resistance, particularly in the last decade, of most sections of American business and economic life to what it terms governmental control or regulation, is well known, though often the dividing line is hard to discover between this undesired state interference with private business and the much sought state protection of individual enterprise through condemnation of monopoly, price cutting, unfair trade practices, and similar activities.

During the last few years substantial parts of a large American business enterprise—insurance, at least in the fields roughly designated as fire and casualty—have surprisingly enough not merely acquiesced without opposition to government control and regulation of many activities, including prices, but actually demanded and labored for such legislation. Undoubtedly this resulted from the Hobson's choice which the industry felt had been forced upon it a few years ago by the Supreme Court and Congress—between federal or state control. Insurance has chosen, when forced to do so, state control as far as possible, probably deeming it the lesser of two evils. The results and consequent problems of that choice are the subject of this symposium.

The success of the insurance business in obtaining its goal of state rather than federal regulation—at least in the recent and comparatively brief period during which this problem has become acute—has been impressive. With amazing speed and unanimity, states have enacted the necessary laws. How wise the choice of state rather than federal control was, remains to be seen. The reasons for it were highly complex: for example, the existence of state regulation to some degree in the past, as contrasted with previous lack of federal control; the resulting familiarity with and confidence in state control, and the fears that federal regulation might drastically alter long continued and widespread insurance methods; a preference for local, decentralized controls rather than a centralized nationwide administration; and a belief that state officials, particularly those with previous experience in this regulating field, might evidence considerably more understanding of and sympathy with the problems the insurance business considered peculiar to itself.

Still, as the articles in this symposium reveal, the industry has moments of uneasiness about this choice. The new state laws of necessity speak in broad general terms, and give wide powers to state officials; considering the number of such officials required, will they always be of first rank and capable of being trusted to exercise

these powers wisely? There is also the problem of uniformity. On the one hand, forty-eight states might enact a bewildering jungle of widely varying rules and regulations, compliance with which would become a formidable if not impossible task for a business which is nationwide in activity. How can sufficient uniformity in regulation among the states be achieved? Nor is this problem simplified by the fact that the insurance industry has difficulty in reconciling diverse viewpoints within itself as to what is a desirable degree of uniformity in many matters.

On the other hand, in certain respects a lack of uniformity may well be highly desirable and contain necessary elements of strength, growth, and development for insurance. It is fortunate, perhaps, that there has been disagreement, and marked disagreement, within the industry itself—between bureau and non-bureau members; between mutuals and stock companies; between agents and insurers; between fire and casualty underwriters—both as to the proper methods and standards for determining rates and as to the rates to be adopted when the desired standards are applied. One need only study the complicated rate schedule for fire insurance, admittedly resulting in the use of a large degree of judgment when fixing the ultimate rate to the insured, in contrast to the highly mathematical and statistical methods of the casualty rate maker, to realize the extent of such differences. Given such diverse techniques and viewpoints, surely the existence of multiple state administrators should permit wise experimentation with new methods especially when it can be done on a small scale and closely observed. Yet unfortunately it is true, as Mr. Brook points out, that there are some disturbing indications that these highly desirable aspects of competition and lack of uniformity may be in danger of elimination under recent state legislation. Such a result might well be disastrous both to insurers and the insuring public.

Protection of the interests of the insured is itself a challenging issue. Has there been or will there be too great preoccupation with the needs of the insurer and too little with those of the insured? Courts and legislatures have often been troubled by this question in the past. It remains to be seen whether state administrators, with their new powers over insurance, will permit themselves gradually to become spokesmen primarily for the insurance business. Will they remember that they also are serving as spokesmen for the insuring public?

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